

PRELIMINARY AMENDMENT
U.S. Appln. No. 09/448,606

REMARKS

Entry and consideration of this Amendment amending claims 11 and 12 is respectfully requested.

Applicants submit that claims 11 and 12 are allowable by reason of their respective dependencies and for the reasons set forth in earlier responses in support of the independent claims, which the Examiner is kindly requested to carefully reconsider. Claims 11 and 12 are also allowable, because the prior art, including JP 01276507 to Kazuya, does not teach a stainless steel layer directly in contact with the core of steel. Indeed, Kazuya discloses a three layered structure with an interlayer made from copper. The reference discloses that this structure serves a very specialized function (resisting damage from lightening strikes). Given that JP '507 is directed to a grounding cable, the reference would not have suggested Applicant's invention. Rather, JP '507 would clearly teach away from the features recited in claims 11 and 12.

Applicant respectfully submits that, to date, none of the Office Actions have grappled with this issue. However, the MPEP mandates that "the references must be considered as a whole," and therefore requires the Examiner to consider and confront those passages of JP '507

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that lead away from the claimed invention. See MPEP § 2141 and In re Hedges, 228 USPQ 685, 687 (Fed. Cir. 1986) (describing how prior art references may ‘teach away’ from a claimed invention, and concluding that teaching away provides "strong evidence of unobviousness").

Respectfully submitted,



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APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

The claims are amended as follows:

Claim 11. (Amended) The telecommunications or power transport cable according to claim 1, wherein [said core of steel directly contacts said layer of stainless steel] said layer of stainless steel of said composite steel wire in said armoring directly contacts the core of steel of said composite steel wire so as to form a two layered structure.

Claim 12. (Amended) The telecommunications or power transport cable according to claim 6, wherein [said core of steel directly contacts said layer of stainless steel] said layer of stainless steel of said one reinforcing wire directly contacts the core of steel of said one reinforcing wire so as to form a two layered structure.